

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|-----------------------|---|------------------|
| MICHAEL SMITH, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | No. 5:23-cv-2166 |
| | : | |
| IDEAL CONCEPTS, INC., | : | |
| Defendant. | : | |

ORDER

AND NOW, this 27th day of November, 2023, for the reasons set forth in the Opinion issued this date, **IT IS ORDERED THAT:**

1. The Motion to Dismiss, *see* ECF No. 9, is **GRANTED in part** and **DENIED in part** as follows:

A. Count I is **DISMISSED without prejudice**;

B. The motion to dismiss Counts II and III is **DENIED**.

2. **Within twenty (20) days of the date of this Order**, Plaintiff may file an amended complaint as to any claims dismissed without prejudice.

3. If Plaintiff fails to timely file an amended complaint, Count I will be dismissed with prejudice and the matter will proceed on Counts II and III only.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.

United States District Judge